



4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2011-0959]

Drawbridge Operation Regulation; Gulf Intracoastal Waterway
(Algiers Alternate Route), Belle Chasse, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulation governing the operation of the SR 23 bridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8, at Belle Chasse, Plaquemines Parish, Louisiana. Due to increased vehicular traffic, the State of Louisiana requested a change to the operation schedule, allowing the bridge to open only on the hour during the day from Monday through Friday, while maintaining morning and afternoon maritime restrictions.

DATES: Comments and related material must reach the Coast Guard on or before [Insert date 60 days after date of publication in the FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by docket number USCG-2011-0959 using any one of the following

methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.

Department of Transportation, West Building Ground Floor,
Room W12-140, 1200 New Jersey Avenue SE, Washington, D.C.
20590-0001.

(4) Hand delivery: Same as mail address above,
between 9 a.m. and 5 p.m., Monday through Friday, except
Federal holidays. The telephone number is 202-355-9329.

To avoid duplication, please use only one of these
four methods. See "Public Participation and Request for
Comments" portion of the SUPPLEMENTARY INFORMATION section
below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on
this proposed rule, call Donna Gagliano, Bridge
Administration Branch at 504-671-2128, email
Donna.Gagliano@uscg.mil. If you have questions on viewing
or submitting material to the docket, call Renee V. Wright,
Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2011-0959), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG-2011-0959" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comment.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2011-0959" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE,

Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

Basis and Purpose

The Coast Guard, at the request of the State of Louisiana, proposes to change the existing operating schedule for the SR 23 vertical lift bridge across the Gulf Intracoastal Waterway (Algiers Alternate Route), mile 3.8,

at Belle Chasse, Plaquemines Parish, Louisiana. Due to an increase in vehicle traffic, the State of Louisiana requested a change to the operation schedule. This change would allow the bridge to open only on the hour during the day from Monday through Friday, while maintaining morning and afternoon maritime restrictions. Bridge tender logs for the past 7-month period showed that approximately 560 vessels (19% of the vessels that transit under the bridge) requested an opening between the hours of 6 a.m. and 9 a.m. and between the hours of 3 p.m. and 6 p.m. Traffic counts were collected beginning September 26, 2011 for a two-week period, during the average work week, and a 24-hour summary showed 7354 vehicles (40%) commuted across the bridge during the same times. Thus, a substantial delay can occur to vehicular traffic during the morning and afternoon heavy commute periods. The proposed change would allow for a set schedule of openings for vessels while minimally disrupting vehicular traffic during the morning and afternoon rush hours. Also, the proposed schedule would allow additional time to clear vehicular traffic from the roadways and reduce traffic backups caused by the bridge openings. It is expected that very few vessels will be impacted by this change, and reasonable alternative routes are available for

vessels that must avoid delay. All vessels waiting during the closure will be allowed to pass at scheduled openings.

Presently, 33 CFR 117.451 (b) states: The draw of the SR 23 Bridge, Algiers Alternate Route, mile 3.8 at Belle Chasse, shall open on signal; except that, from 6 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:30 p.m. Monday through Friday, except Federal holidays, the draw need not be opened for the passage of vessels.

Discussion of Proposed Rule

The proposed change will allow the bridge to operate as follows: The bridge shall open on signal between 8 p.m. and 6:30 a.m. for the passage of vessels. From 6:30 a.m. until 8 p.m. Monday through Friday the bridge will only open on the hour for the passage of vessel traffic. However, to facilitate the movement of vehicular traffic during rush hour this change will continue to allow the bridge to remain closed to navigation from 6:30 a.m. until 9 a.m. and from 3:30 p.m. until 6 p.m. Monday through Friday, excluding Federal holidays. Specifically, the draw need not open at 7 a.m., 8 a.m., 4 p.m. and 5 p.m. weekdays, excluding Federal holidays. Hourly openings will allow the motorist to know when the bridge may open. At all times on the weekend the bridge will open on signal.

The vertical clearance of the bridge is 40 feet above mean high water in the closed-to-navigation position, so only vessels with vertical clearance requirement of greater than 40 feet will be affected by the proposed change. An alternate route is available via Harvey Canal (GIWW), if such vessels do not wish to be delayed.

A Test Deviation, following the aforementioned operating schedule under docket number USCG-2011-0959, is being issued in conjunction with the Notice of Proposed Rulemaking to test the proposed schedules and to obtain data and public comments. The test period will be in effect from [Insert date 15 days after date of publication in the FEDERAL REGISTER.] until [Insert date 45 days after date of publication in the FEDERAL REGISTER.]. The Coast Guard will review the logs of the drawbridge and evaluate public comments for this Notice of Proposed Rulemaking and the above referenced Temporary Deviation to determine if a permanent special drawbridge operating regulation is warranted.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Very few vessels will be impacted or backed up, and those few vessels should be able to modify their transit times and routes accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit the bridge from 6:30 a.m. until 8:00 p.m. Monday through Friday. The proposed set schedule for the minimal time adjustment of each bridge closure would affect a small number of vessels impacted by the proposed rule.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessels that can transit under the bridge may do so at any time. Although, the set closure of the drawbridge will effectively close that section of the waterway, an alternative route (Harvey Canal, GIWW) is available with little additional transit time. Before the effective period, we will issue maritime advisories which will be widely available to users of the waterway.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule

would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Donna Gagliano, Bridge Administration Branch, at 504-671-2128. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule

under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply,

distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-

01, and Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Section 117.451(b) is revised to read as follows:

§117.451 Gulf Intracoastal Waterway.

* * * * *

(b) The draw of the SR 23 Bridge, Algiers Alternate Route, mile 3.8 at Belle Chasse, shall open on signal; except that from 6:30 a.m. until 8 p.m. Monday through Friday, the draw need only open on the hour for the passage of vessels. The draw need not open at 7 a.m., 8 a.m., 4 p.m. and 5 p.m. Monday through Friday excluding Federal holidays.

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Dated: November 3, 2011

Roy A. Nash
Rear Admiral, U.S. Coast Guard
Commander
Eighth Coast Guard District

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